

UNITED STATES DISTRICT COURT

Eastern District of New York

Steven McCune

- v -

County of Suffolk, et. al.

Presiding Judge: **Joanna Seybert, Senior U.S.D.J.**Case No(s): **14-cv-4431-JS-ST**Date: **3/3/2023**Start Time: **10:37 AM** Total Time: 7 mins.

MINUTE ENTRY FOR A CIVIL PROCEEDING

SEALED PROCEEDING: ☐ Yes ☒ No

I. APPEARANCES:

Plaintiff : **Frederick K. Brewington, Esq.**

Defendant : **Arlene S. Zwilling, Esq.**

_____ :

_____ :

_____ :

_____ :

_____ :

_____ :

_____ :

_____ :

_____ :

Court Reporter: _____

FTR Time: **10:37 - 10:44**

Courtroom Deputy: Eric L. Russo

II. PROCEEDINGS HELD:

- | | | | |
|--|--|--|---|
| <input type="checkbox"/> In-Person | <input type="checkbox"/> Bench Trial | <input type="checkbox"/> Jury Deliberations | <input type="checkbox"/> Preliminary Injunction Hearing |
| <input checked="" type="checkbox"/> By Telephone | <input type="checkbox"/> Contempt Hearing | <input type="checkbox"/> Jury Selection (<i>Voir Dire</i>) | <input type="checkbox"/> Pre-Motion Conference |
| | <input type="checkbox"/> Evidentiary Hearing | <input type="checkbox"/> Jury Trial | <input checked="" type="checkbox"/> Status/Pre-Trial Conference |
| | <input type="checkbox"/> Fairness/Settlement Hearing | <input type="checkbox"/> Motion Hearing | <input type="checkbox"/> Show Cause Hearing |
- ☐ Other Proceeding: _____

III. PROCEEDINGS SUMMARY:

- ☐ Preliminary Injunction Hearing held.
- ☐ The parties presented their oral arguments to the Court.
- ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Exhibits were entered into evidence.
- ☐ The Court made the following ruling(s):
- | | |
|---|--|
| <input type="checkbox"/> Motion <u>granted</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion <u>denied</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion <u>granted, in part, and denied, in part</u> , as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion found <u>moot</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Decision <u>reserved</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
- ☐ The following briefing schedule was set as to _____:
- | | |
|--|--------|
| <input type="checkbox"/> _____ shall serve the <u>motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>opposition to the motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>cross-motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>reply</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>opposition to the cross motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>reply to the cross motion</u> and all supporting papers by: | _____. |
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

- ☒ Pre-Motion/Status/Pre-Trial Conference held.
- ☒ The parties advised the Court of the status of the case.
- ☐ The parties presented their oral arguments to the Court regarding the proposed motion(s).
- ☐ The following briefing schedule was set as to _____:
- ☐ _____ shall serve the motion and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the motion and all supporting papers by: _____.
- ☐ _____ shall serve the cross-motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the cross motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply to the cross motion and all supporting papers by: _____.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court deemed this case ready for trial (or was previously deemed ready for trial by the Magistrate Judge).
- ☐ The Court set the following pre-hearing/pre-trial submission schedule:
- ☐ Motions in Limine due by: _____.
- ☐ Oppositions to Motions in Limine due by: _____.
- ☐ Replies to Motions in Limine due by: _____.
- ☐ Proposed Voir Dire questions and case summary due by: _____.
- ☐ Proposed exhibits and witness list due by: _____.
- ☐ Requests to Charge and proposed verdict sheets due by: _____.
- ☐ _____: _____.
- ☐ The Court will enter a separate order outlining the pre-hearing/pre-trial submission schedule.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (*same date as the final reply date*).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☒ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Contempt/Evidentiary/Motion/Show-Cause Hearing held.
- ☐ Hearing held regarding _____.
- ☐ _____ moved for:
- ☐ Judgment as a Matter of Law (Rule 50(a))
- ☐ Judgment Notwithstanding the Verdict (Rule 50(b))
- ☐ Mistrial/New Trial (Rule 59)
- ☐ _____.
- ☐ The parties presented their oral arguments to the Court.
- ☐ The following briefing schedule was set as to the motion(s) above:
- ☐ _____ shall serve the motion and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the motion and all supporting papers by: _____.
- ☐ _____ shall serve the cross-motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the cross motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply to the cross motion and all supporting papers by: _____.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court will enter a separate order outlining the post-trial submission schedule.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (*same date as the final reply date*).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Exhibits were entered into evidence.
- ☐ The Court made the following ruling(s): ☐ Motion granted; ☐ Motion denied; ☐ Motion granted, in part, and denied, in part.
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.

- ☐ Fairness Hearing/Settlement Conference held.
- ☐ The parties outlined the details of the settlement agreement.
 - ☐ No party(ies) appeared opposing the settlement.
 - ☐ Objections to the proposed settlement were heard.
 - ☐ The Court made the following ruling(s):
 - ☐ Motion granted as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
 - ☐ Motion denied as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
 - ☐ Motion granted, in part, and denied, in part, as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
 - ☐ Motion found moot as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
 - ☐ Decision reserved as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
 - ☐ The following briefing schedule was set as to _____:
 - ☐ _____ shall serve the motion and all supporting papers by: _____.
 - ☐ _____ shall serve the opposition to the motion and all supporting papers by: _____.
 - ☐ _____ shall serve the cross-motion and all supporting papers by: _____.
 - ☐ _____ shall serve the reply and all supporting papers by: _____.
 - ☐ _____ shall serve the opposition to the cross motion and all supporting papers by: _____.
 - ☐ _____ shall serve the reply to the cross motion and all supporting papers by: _____.
 - ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
 - ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (same date as the final reply date).
 - ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
 - ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.
- ☐ Bench Trial held/continued.
- ☐ Opening statements were heard from the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Opening statements waived by the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Exhibits were entered into evidence.
 - ☐ _____ rests.
 - ☐ _____ rests.
 - ☐ _____ rests.
 - ☐ Summations were heard from the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Summations waived by the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ The Court set the following post-trial submission schedule:
 - ☐ _____ Findings of Fact and Conclusions of Law are due by: _____.
 - ☐ _____ Findings of Fact and Conclusions of Law are due by: _____.
 - ☐ _____ Findings of Fact and Conclusions of Law are due by: _____.
 - ☐ _____: _____.
 - ☐ _____: _____.
 - ☐ _____: _____.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
 - ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

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- ☐ Jury Selection (*Voir Dire*) held/continued.
- ☐ The prospective jurors were sworn and given preliminary instructions by the Court.
 - ☐ The prospective jurors were asked questions touching upon their qualifications to serve as jurors.
 - ☐ _____ moved for a Batson Challenge as to Juror Number _____.
 - ☐ The parties presented their oral arguments to the Court.
 - ☐ The motion was ☐ granted and the juror was excused; ☐ denied and the juror remains unchallenged.
 - ☐ A jury of _____ were selected and are satisfactory to all parties.
 - ☐ The selected jurors were sworn as trial jurors.
 - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Jury Trial held/continued.
- ☐ The selected jurors were sworn as trial jurors.
 - ☐ The jurors were given preliminary instructions by the Court.
 - ☐ Opening statements were heard from the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Opening statements waived by the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Exhibits were entered into evidence.
 - ☐ _____ rests.
 - ☐ _____ rests.
 - ☐ _____ rests.
 - ☐ The Charge Conference was held between the Court and the parties (absent the presence of the jury).
 - ☐ Summations were heard from the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Summations waived by the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ The Court charged the jury.
 - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Jury Deliberations held.
- ☐ Jury Notes were received and marked as Court Exhibits.
 - ☐ The Court instructed the jury to continue their deliberations pursuant to Allen v. United States (*Allen Charge*).
 - ☐ The jury rendered their verdict.
 - ☐ The jurors were polled as to their verdict.
 - ☐ The Verdict Sheet was received and marked as a Court Exhibit.
 - ☐ The jurors were excused with the thanks of the Court.
 - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.

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IV. OTHER RULINGS MADE DURING THE PROCEEDINGS:

☐ The record of this proceeding was deemed sealed. Transcripts of this proceeding can be made available to the Court and the parties listed on the case **ONLY**. Any other non-party who wishes to get a copy of the transcripts must file a written request to the Court for consideration.

- ☒ - The parties advised the Court that they have signed and filed the Consent to Magistrate Jurisdiction for all purposes.
- The parties were directed to participate in the Court's Mediation program. Mediation is to be completed by 5/3/2023.
- The parties were given a trial date of 5/30/2023 before Magistrate Judge Tiscione. Plaintiff's counsel indicated that they are available for trial on that date. Defense counsel was directed to report back to this Court as to any potential witness scheduling conflicts with the trial date by 3/6/2023.
- This Court has reserved decision on the Consent to Magistrate Jurisdiction pending defense counsel's witness availability.

V. FURTHER PROCEEDINGS SET:

- ☐ Bench Trial: _____ at _____ before Judge _____ (_____).
- ☐ Contempt Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Evidentiary Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Fairness Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Jury Selection: _____ at _____ before Judge _____ (_____).
- ☐ Jury Trial: _____ at _____ before Judge _____ (_____).
- ☐ Motion Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Preliminary Injunction Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Pre-Motion Conference: _____ at _____ before Judge _____ (_____).
- ☐ Pre-Trial Conference: _____ at _____ before Judge _____ (_____).
- ☐ Settlement Conference: _____ at _____ before Judge _____ (_____).
- ☐ Show Cause Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Status Conference: _____ at _____ before Judge _____ (_____).

☐ Further instructions regarding the proceedings set:

- ☐ The Court ordered the proceeding(s) to be held via the Court's teleconferencing system. Parties are directed to dial the following telephone number at the designated time: **877-336-1839, access code 7231185.**

☐

☒ No further proceedings have been set at this time. (**Note:** Further proceedings may have been set previously. Refer to the docket sheet.)